

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

MARIO GIBSON,  
Plaintiff,

vs.

CITY OF CINCINNATI, *et al.*,  
Defendants.

Case No. 1:21-cv-292

Barrett, J.  
Litkovitz, M.J.

**SUPPLEMENTAL REPORT  
AND RECOMMENDATION**

Plaintiff, an inmate at the Hamilton County Justice Center (HCJC), has filed a motion for leave to proceed *in forma pauperis* in connection with a pro se civil rights complaint under 42 U.S.C. § 1983. (Doc. 1). Because plaintiff's certified prison trust fund account statement reveals that as of April 5, 2021, plaintiff had \$513.00 on account to his credit at HCJC (*see* Doc. 1 at PageID 6), the Court recommended on April 29, 2021, that plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 1) be **DENIED** and that plaintiff be ordered to pay the required filing fee of \$402.00 within **thirty (30) days** of the date of filing of any Order adopting the Report and Recommendation. (Doc. 2).

On May 17, 2021, plaintiff filed a Motion for Objection to Report and Recommendation, which, in effect, requests the Court to reconsider its Report and Recommendation (Doc. 2) on the ground that HCJC has refused to remove money from plaintiff's account to pay the filing fee. (*See* Doc. 3 at PageID 31-32).

For good cause shown, the undersigned hereby **VACATES IN PART** the April 29, 2021, Report and Recommendation (Doc. 2) and **SUPPLEMENTS** it as follows:

Because it appears that plaintiff has sufficient funds to commence this action (*see* Doc. 1 at PageID 6),<sup>1</sup> it is **RECOMMENDED** that plaintiff's motion for leave to proceed *in forma*


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<sup>1</sup>To the extent that plaintiff suggests that funds he received from a federal stimulus check are exempt from the Prison Litigation Reform Act filing fee requirements, courts have rejected that argument. *See, e.g., Bell v.*

*pauperis* (Doc. 1) be **DENIED**, that plaintiff be **ORDERED** to request a check or money order in the amount of the \$402 filing fee from HCJC in writing within **fourteen (14) days** of the date of filing of any Order adopting this Report and Recommendation, and that HCJC be **ORDERED** to comply with plaintiff's request within **fourteen (14) days** of receiving the request. For ease of reference, it is further **RECOMMENDED** that the Clerk of Court be **DIRECTED** to forward a copy of any Order adopting this Report and Recommendation to the cashier at HCJC and to the Hamilton County Prosecuting Attorney's Office.

**IT IS SO RECOMMENDED.**

Date: 5/27/2021

  
Karen L. Litkovitz  
United States Magistrate Judge

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*Maryland*, No. CV GLR-21-806, 2021 WL 1516011, at \*3 (D. Md. Apr. 16, 2021) (citing *Hill v. Cook*, 2021 WL 1178209 \*2 (D. Ct. Mar. 29, 2021)).

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**NOTICE**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).